IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 11594 of 2007(E)

PETITIONER:

SUNNY MATHEW, AGED 48 YEARS,
S/O.K.P.MATHAI, THANNICKAL HOUSE,
KONDADU, RAMAPURAM, KOTTAYAM DISTRICT.

BY ADV. SRI.JOY GEORGE
SMT.PRAICY JOSEPH
SMT.ANU VENU

RESPONDENTS:

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1. THE SECRETARY, DISTRICT CO-OPERATIVE BANK, RAMAPURAM BRANCH, RAMAPURAM.

2. THE KOTTAYAM DIST.CO-OP. BANK LTD., REPRESENTED BY ITS SECRETARY, DIST.CO-OPERATIVE BANK, HEAD OFFICE, KOTTAYAM.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL), KOTTAYAM.

R1&2 BY ADV. SRI.SUNIL CYRIAC,SC,DIST.CO-OP,BANK,KTM
R3 BY G.P. SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.11594 of 2007

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Dated this the 3rd day of April, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for second respondent. The proceedings under challenge is initiated under the Securitisation Act for recovery of loan arrears and interest due from petitioner to the Bank. Since the loan is admitted, the Bank is free to proceed for recovery under the Securitisation Act. However, if petitioner makes payment within a reasonable time, I feel Bank should grant benefit under OTS scheme. Counsel for the petitioner submitted that petitioner's three daughters are studying and petitioner is in extreme financial difficulties. The property secured for the loan includes petitioner's house. However, counsel submitted that if petitioner is permitted to sell part of the mortgaged property, then petitioner can save his house. In the circumstances, W.P. is disposed of with direction to the respondents to withhold all recovery proceedings against the petitioner till 30.6.2007. In between, petitioner is free to negotiate for sale of any part of the property and enter into agreement for sale of such property. However, Bank will release title deed and petitioner should execute sale deed only on clearing

the arrears due to the Bank which should be done before 30.6.2007. The Bank should grant OTS benefit to the petitioner, if payments are made before 30.6.2007 and if OTS benefit is not available, Bank should atleast waive full penal interest if payments are made on or before 30.6.2007. However, if petitioner commits default, Bank is free to sell the mortgaged property and recover the arrears after 30.6.2007.

C.N.RAMACHANDRAN NAIR
Judge

pms